

BEFORE THE FEDERAL ELECTION COMMISSION

2013 AUG 12 PM 12:24

In the Matter of

MUR 6605

Gary Latanich for Congress
and Janet L. Lee as treasurer

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DISMISSAL AND
CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY
SYSTEM

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GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue. These criteria include, without limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), and developments of the law. It is the Commission's policy that pursuing relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss cases under certain circumstances. The Office of General Counsel has scored MUR 6605 as a low-rated matter and has determined that it should not be referred to the Alternative Dispute Resolution Office. For the reasons set forth below, the Office of General Counsel recommends that the Commission exercise its prosecutorial discretion and dismiss MUR 6605 as to Respondents Gary Latanich for Congress and Janet L. Lee in her official capacity as treasurer (collectively the "Committee").¹

¹
Filed: July 25, 2012.

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1 According to the Complaint and attachments thereto, the Committee² violated the
2 Act's reporting requirements in connection with an \$8,765.84 debt it allegedly owed to
3 Complainant's company, Stanford Campaigns. *See* Compl. at 1-2.³ Specifically, the
4 Complaint states that on January 8, 2012, Stanford Campaigns entered into an agreement with
5 the Committee to perform public records research and analysis. *Id.* at 1; *see also id.*, Attach.
6 1 (agreement). According to the agreement, which was signed by then-treasurer Amanda
7 Boulden, the Committee agreed to pay Stanford Campaigns a fee of \$10,000, in addition to
8 reimbursing it for related out-of-pocket expenses. *Id.* On February 6, 2012, Stanford
9 Campaigns received a payment from the Committee in the amount of \$2,500. *Id.* at 2; *see*
10 *also id.*, Attachs. 2-3 (invoice and Committee check for \$2,500). The Complaint states that
11 the check cleared and is not part of the amount in dispute. *Id.* at 2.

12 On February 21, 2012, Stanford Campaigns invoiced the Committee for the remaining
13 \$7,500 plus \$1,265.84 in "research and travel expenses," for a total of \$8,765.84. Compl. at
14 2; *see also id.*, Attach. 4 (invoice). Thereafter, Stanford Campaigns received a second check
15 from the Committee on March 19, 2012. *Id.* at 2. The check, in the amount of \$7,500, was
16 "postdated as per an informal agreement with then campaign manager, Mr. Peter Grumbles."
17 *Id.*; *see also id.*, Attach. 5 (Committee check for \$7,500, dated April 5, 2012).⁴ When

² The Committee is the campaign committee of Gary Latanich, an unsuccessful candidate in the May 22, 2012 Democratic primary election for Arkansas's 1st Congressional District.

³ The Complainant, Jason Stanford, is the president of Stanford Campaigns. Compl., Attach. 1 at 3. According to its website, Stanford Campaigns provides opposition research, campaign strategy, and communications services.

⁴ After receiving the second check, Stanford Campaigns provided the Committee with a report on candidate Clark Hall, one of Latanich's primary election opponents. Compl. at 2.

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1 Stanford Campaigns sought to cash the check, however, it was returned by the bank “for
2 insufficient funds.” *Id.* at 2.

3 Citing Commission regulations 11 C.F.R. §§ 104.3(d), 104.11, and 116.10, the
4 Complaint alleges that the Committee was required to report the amount it allegedly owed to
5 Stanford Campaigns on Schedule D of its financial disclosure reports. Compl. at 1. However,
6 the Complaint claims that the Committee failed to do so. *Id.*

7 Gary Latanich, responding on behalf of his Committee, acknowledges that the
8 Committee failed to disclose the debt, but asserts that this resulted from “Mr. Stanford’s
9 failure to send an invoice to the campaign and his failure to respond to a letter sent to him by
10 the campaign’s newly acquired attorney.” Resp. at 1. Latanich explains that his campaign
11 manager, Peter Grumbles, and treasurer Boulden “quit the campaign on April 2, [2012,]
12 because the campaign did not have the funds to make the scheduled March 15 payment to
13 them.” *Id.* Before doing so, Grumbles instructed Boulden to write a \$2,000 check “to Mr.
14 Grumbles’ firm, {set} Strategies [*sic*], leaving the campaign with a balance of about \$750.”
15 *Id.* According to Latanich, Grumbles and Boulden also “sent a post dated check to Stanford
16 Research for \$7,500, with instructions to submit the check for payment after they had left the
17 campaign, with full knowledge that the check would not clear.” *Id.* at 1-2.

18 Latanich states that after the departure of Grumbles and Boulden, replacement
19 treasurer Janet L. Lee “located outstanding invoices and recorded them as debts against the
20 campaign.” Resp. at 1. Although a letter from Stanford Campaigns alluding to the agreement
21 was discovered, there was no invoice stating the amount owed. *Id.* On June 4, 2012, the
22 Committee’s counsel submitted a letter to the Complainant setting forth the Committee’s

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1 belief that it did not owe his company any additional money. *Id.* at 2. Since Stanford
2 Campaigns did not respond, the Committee filed its next financial disclosure report, the 2012
3 July Quarterly Report, without disclosing a debt to Stanford Campaigns. *Id.* Latanich claims
4 that the Committee learned of the debt when Stanford filed the Complaint in this matter with
5 an invoice attached. *Id.* As a result, Latanich states in the Response that the Committee
6 would amend its reports to disclose the debt, although it planned to challenge the amount
7 allegedly owed. *Id.*

8 Under 11 C.F.R. § 116.1(d),

9 *disputed debt* means an actual or potential debt or obligation owed by a
10 political committee, including an obligation arising from a written
11 contract, promise, or agreement to make an expenditure, where there is
12 a bona fide disagreement between the creditor and the political
13 committee as to the existence or amount of the obligation owed by the
14 political committee.
15

16 Furthermore, “[a] political committee shall report a disputed debt in accordance with 11 CFR
17 104.3(d) and 104.11 if the creditor has provided something of value to the political
18 committee” and “[u]ntil the dispute is resolved, the political committee shall disclose on the
19 appropriate reports any amounts paid to the creditor, any amount the political committee
20 admits it owes, and the amount the creditor claims is owed.” 11 C.F.R. § 116.10(a).

21 Here, the Committee, through Latanich, acknowledges that it should have reported the
22 \$8,765.84 debt claimed by Stanford Campaigns on its financial disclosure reports. Resp. at 1.
23 A review of the Committee’s filings indicate that the Committee amended its 2012 April
24 Quarterly, 12-Day Pre-Primary, and July Quarterly Reports to disclose the debt.⁵ The

⁵ See Amended 2012 April Quarterly Report at 24 (Oct. 16, 2012);
<http://images.nictusa.com/pdf/191/12972706191/12972706191.pdf>; Amended 2012 12-Day Pre-Primary Report

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1 Committee also disclosed the debt on its 2012 October Quarterly Report, the first financial
2 disclosure report it filed after receiving the Complaint and accompanying invoice and
3 agreement.⁶ Moreover, after the Complaint and Response were filed, the Committee and
4 Stanford Campaigns agreed to settle the debt for \$2,000. *See* Committee's Debt Settlement
5 Plan ("DSP") at 4 (Settlement Agreement and Release by Stanford Campaigns) (April 22,
6 2013).⁷

7 The Committee acted promptly to amend its financial disclosure reports and disclose
8 the debt to Stanford Campaigns after it received copies of the relevant invoice and agreement.
9 Therefore, in furtherance of the Commission's priorities relative to other matters pending on
10 the Enforcement docket, the Office of General Counsel believes that the Commission should
11 exercise its prosecutorial discretion and dismiss this matter pursuant to *Heckler v. Chaney*,
12 470 U.S. 821 (1985), approve the attached Factual and Legal Analysis and the appropriate
13 letters, and close the file.

14 **RECOMMENDATIONS**

- 15 1. Dismiss MUR 6605, pursuant to the Commission's prosecutorial discretion;
- 16 2. Approve the attached Factual and Legal Analysis and the appropriate letters; and
- 17
- 18

19

at 12 (Oct. 15, 2012), <http://images.nictusa.com/pdf/804/12954405804/12954405804.pdf>; Amended 2012 July
Quarterly Report at 10 (Oct. 15, 2012), <http://images.nictusa.com/pdf/502/12954406502/12954406502.pdf>.

⁶ *See* 2012 October Quarterly Report at 9 (Oct. 15, 2012),
<http://query.nictusa.com/pdf/388/12972650388/12972650388.pdf#navpanes=0>.

⁷ The DSP, which is appended to this Report as Attachment 1, was approved on July 10, 2013. *See*
<http://query.nictusa.com/pdf/197/13330034197/13330034197.pdf#navpanes=0>.

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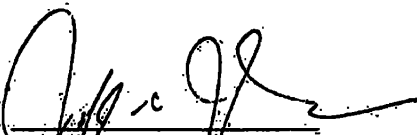
General Counsel

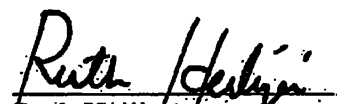
Date

8/12/13

BY:


Gregory R. Baker
Deputy General Counsel


Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration


Ruth Heilizer
Attorney
Complaints Examination
& Legal Administration

Attachments:

1. DSP from Gary Latanich for Congress

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DEBT SETTLEMENT PLAN

NAME OF COMMITTEE Gary Latanich for Congress
ADDRESS 1904 Woodsprings Road
CITY, STATE AND ZIP CODE Jonesboro, AR 72401

RECEIVED

2013 APR 22 AM 10:43

FEC MAIL CENTER

FEC I.D. NUMBER

C00508713

PART I — COMMITTEE SUMMARY INFORMATION

1. CASH ON HAND AS OF <u>04.12.13</u>	\$197.55	6. TOTAL AMOUNT OF DEBTS OWED BY THE COMMITTEE	\$34,758.84
2. TOTAL ASSETS TO BE LIQUIDATED		7. TOTAL NUMBER OF CREDITORS OWED	1
3. TOTAL (ADD 1 AND 2)	\$197.55	8. NUMBER OF CREDITORS IN PART II OF THIS PLAN	2
4. YEAR TO DATE RECEIPTS	-0-	9. TOTAL AMOUNT OF DEBTS OWED TO THE CREDITORS IN PART II OF THIS PLAN	\$6,758.84
5. YEAR TO DATE DISBURSEMENTS	-0-	10. TOTAL AMOUNT TO BE PAID TO CREDITORS IN PART II OF THIS PLAN	\$2,000.00

11. IS THE COMMITTEE TERMINATING ITS ACTIVITIES?

☒ YES ☐ NO

IF YES, WHEN DOES THE COMMITTEE EXPECT TO FILE A TERMINATION REPORT? IF NO, COMMITTEE IS NOT ELIGIBLE TO FILE A DEBT SETTLEMENT PLAN (SEE INSTRUCTIONS).

At this time a court date has not been set for the disputed debt with Set Strategies.

12. IF THIS IS AN AUTHORIZED COMMITTEE, DOES THE CANDIDATE HAVE OTHER AUTHORIZED COMMITTEES?

☐ YES ☒ NO

IF YES, LIST BELOW.

13. DOES THE COMMITTEE HAVE SUFFICIENT FUNDS TO PAY THE TOTAL AMOUNT INDICATED IN THIS PLAN?

☐ YES ☒ NO

IF NO, WHAT STEPS WILL BE TAKEN TO OBTAIN THE FUNDS?

Payment will be provided by Candidate from personal funds.

14. HAS THE COMMITTEE FILED PREVIOUS DEBT SETTLEMENT PLANS?

☐ YES ☒ NO

15. AFTER DISPOSING OF ALL THE COMMITTEE'S DEBTS AND OBLIGATIONS, WILL THERE BE ANY RESIDUAL FUNDS?

☐ YES ☒ NO

IF YES, HOW WILL THE FUNDS BE DISBURSED?

I certify, to the best of my knowledge, that the information contained in this Debt Settlement Plan is true, correct and complete.

SIGNATURE OF
TREASURER OF
COMMITTEE

Gary L. Latanich

DATE

04.12.13

FEC FORM 8

(Revised 1/2001)

FE1AN001.PDF

ATTACHMENT 1

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DEBT SETTLEMENT PLAN

PART II

NAME OF COMMITTEE Gary Latanich for Congress	FEC I.D. NUMBER C00508713	PAGE 2	OF 5
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CREDITOR SUMMARY INFORMATION (FILL OUT FOR EACH CREDITOR IN PLAN)

FULL NAME AND MAILING ADDRESS OF CREDITOR Gary Latanich 1904 Woodsprings Road Jonesboro, AR 72401	DATE INCURRED 02.20.12 through 12.20.12	AMOUNT OWED TO CREDITOR \$28,000.00	AMOUNT OFFERED IN SETTLEMENT -0-
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TYPE OF CREDITOR:

☐ INCORPORATED COMMERCIAL VENDOR ☐ UNINCORPORATED COMMERCIAL VENDOR ☒ CANDIDATE ☐ COMMITTEE EMPLOYEE ☐ OTHER INDIVIDUAL

A. TERMS OF THE INITIAL EXTENSION OF CREDIT AND NATURE OF THE DEBT

N/A

B. EFFORTS MADE BY THE COMMITTEE TO PAY THE DEBT

N/A

C. STEPS TAKEN BY THE CREDITOR TO COLLECT THE DEBT

N/A

CREDITOR SECTION (TO BE FILLED OUT BY CREDITOR)

D. WAS THE EFFORT MADE BY THE CREDITOR TO COLLECT THE DEBT SIMILAR TO OTHER DEBT COLLECTION EFFORTS AGAINST NONPOLITICAL DEBTORS?

☐ YES ☒ NO IF NO, PLEASE EXPLAIN

Candidate's own funds.

E. ARE THE TERMS OF THE DEBT SETTLEMENT COMPARABLE TO OTHER SETTLEMENTS MADE BY THE CREDITOR WITH OTHER NONPOLITICAL DEBTORS?

☐ YES ☒ NO IF NO, PLEASE EXPLAIN

Candidate's own funds.

As a representative of the creditor, I hereby accept the settlement offer made to me by the committee and upon payment agree to consider the debt satisfied (or attach a copy of the signed settlement).

SIGNATURE OF
CREDITOR OR
REPRESENTATIVE

Gary Latanich

DATE
04.12.13

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DEBT SETTLEMENT PLAN

PART II

NAME OF COMMITTEE Gary Latanich for Congress	FEC I.D. NUMBER C00508713	PAGE 3	OF 5
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CREDITOR SUMMARY INFORMATION (FILL OUT FOR EACH CREDITOR IN PLAN)

FULL NAME AND MAILING ADDRESS OF CREDITOR Stanford Campaigns 2520 Longview St., Ste. 410 Austin, TX 78705	DATE INCURRED 01.18.12	AMOUNT OWED TO CREDITOR \$8,765.84	AMOUNT OFFERED IN SETTLEMENT \$2,000.00
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TYPE OF CREDITOR:

☒ INCORPORATED COMMERCIAL VENDOR ☐ UNINCORPORATED COMMERCIAL VENDOR ☐ CANDIDATE ☐ COMMITTEE EMPLOYEE ☐ OTHER INDIVIDUAL

A. TERMS OF THE INITIAL EXTENSION OF CREDIT AND NATURE OF THE DEBT

Pete Grumbles entered into an agreement with Stanford Campaigns for \$10,000 plus travel expenses (1,265.84). \$2,500 was paid to Stanford Campaigns. When Pete left the campaign, there were no copies of an agreement, signed or unsigned. Pete also wrote and mailed a check for \$7,500 knowing there were not sufficient funds in the campaign account to cover this expense.

B. EFFORTS MADE BY THE COMMITTEE TO PAY THE DEBT

The Candidate obtained counsel and offered \$2,000.00 as a settlement.

C. STEPS TAKEN BY THE CREDITOR TO COLLECT THE DEBT

Stanford sent a letter to the Candidate stating that they were owed \$8,765.84. When they received the offer of \$2,000.00 by counsel, Stanford agreed and accepted the offer. Please see Settlement Agreement and Release enclosed.

CREDITOR SECTION (TO BE FILLED OUT BY CREDITOR)

D. WAS THE EFFORT MADE BY THE CREDITOR TO COLLECT THE DEBT SIMILAR TO OTHER DEBT COLLECTION EFFORTS AGAINST NONPOLITICAL DEBTORS?

☐ YES ☐ NO IF NO, PLEASE EXPLAIN

E. ARE THE TERMS OF THE DEBT SETTLEMENT COMPARABLE TO OTHER SETTLEMENTS MADE BY THE CREDITOR WITH OTHER NONPOLITICAL DEBTORS?

☐ YES ☐ NO IF NO, PLEASE EXPLAIN

As a representative of the creditor, I hereby accept the settlement offer made to me by the committee and upon payment agree to consider the debt satisfied (or attach a copy of the signed settlement).

SIGNATURE OF
CREDITOR OR
REPRESENTATIVE

DATE

SETTLEMENT AGREEMENT AND RELEASE

FOR AND IN CONSIDERATION of the payment of the sum of Two Thousand and 00/100 Dollars (\$2,000.00), the receipt and sufficiency of which is hereby acknowledged, STANFORD CAMPAIGNS, a Texas corporation (hereinafter "STANFORD"), by its duly authorized representative, does hereby release, acquit and forever discharge GARY LATANICH FOR CONGRESS, its members, officers and assigns (hereinafter "LATANICH"), of and from any and all claims, actions, causes of action or demands of any kind or nature whatsoever, and particularly all claims arising out of the debt alleged to be owed under that certain Services Agreement between STANFORD and LATANICH dated January 10, 2012.

It is acknowledged that this settlement is in compromise of a dispute, and that the payment mentioned above shall never be construed as an admission of liability on the part of the parties hereby released. No promise or inducement not contained herein has been made to the undersigned, this release contains the entire agreement between the parties hereto, and the terms of this release are contractual.

WITNESS my hand and seals this 2nd day of January, 2013.

STANFORD CAMPAIGNS, a Texas corporation

By: [Signature]
(Signature of authorized representative)

Sonia N. Van Meter, Managing Director
(Printed name and title)

DEBT SETTLEMENT PLAN

PART III

NAME OF COMMITTEE Gary Latanich for Congress	FEC I.D. NUMBER C00508713	PAGE 5	OF 5
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LIST REMAINING DEBTS

A. FULL NAME, MAILING ADDRESS AND ZIP CODE OF CREDITOR	AMOUNT OWED TO CREDITOR	AMOUNT EXPECTED TO PAY/OFFER
Set Strategies 5792 Bedford Loop E Southaven, MS 38672 TYPE OF CREDITOR: <input type="checkbox"/> INCORPORATED COMMERCIAL VENDOR <input type="checkbox"/> UNINCORPORATED COMMERCIAL VENDOR <input type="checkbox"/> CANDIDATE <input checked="" type="checkbox"/> COMMITTEE EMPLOYEE <input type="checkbox"/> OTHER INDIVIDUAL IS THIS A DISPUTED DEBT? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	\$6,758.84	-0-
B. FULL NAME, MAILING ADDRESS AND ZIP CODE OF CREDITOR TYPE OF CREDITOR: <input type="checkbox"/> INCORPORATED COMMERCIAL VENDOR <input type="checkbox"/> UNINCORPORATED COMMERCIAL VENDOR <input type="checkbox"/> CANDIDATE <input type="checkbox"/> COMMITTEE EMPLOYEE <input type="checkbox"/> OTHER INDIVIDUAL IS THIS A DISPUTED DEBT? <input type="checkbox"/> YES <input type="checkbox"/> NO		
C. FULL NAME, MAILING ADDRESS AND ZIP CODE OF CREDITOR TYPE OF CREDITOR: <input type="checkbox"/> INCORPORATED COMMERCIAL VENDOR <input type="checkbox"/> UNINCORPORATED COMMERCIAL VENDOR <input type="checkbox"/> CANDIDATE <input type="checkbox"/> COMMITTEE EMPLOYEE <input type="checkbox"/> OTHER INDIVIDUAL IS THIS A DISPUTED DEBT? <input type="checkbox"/> YES <input type="checkbox"/> NO		
D. FULL NAME, MAILING ADDRESS AND ZIP CODE OF CREDITOR TYPE OF CREDITOR: <input type="checkbox"/> INCORPORATED COMMERCIAL VENDOR <input type="checkbox"/> UNINCORPORATED COMMERCIAL VENDOR <input type="checkbox"/> CANDIDATE <input type="checkbox"/> COMMITTEE EMPLOYEE <input type="checkbox"/> OTHER INDIVIDUAL IS THIS A DISPUTED DEBT? <input type="checkbox"/> YES <input type="checkbox"/> NO		
E. FULL NAME, MAILING ADDRESS AND ZIP CODE OF CREDITOR TYPE OF CREDITOR: <input type="checkbox"/> INCORPORATED COMMERCIAL VENDOR <input type="checkbox"/> UNINCORPORATED COMMERCIAL VENDOR <input type="checkbox"/> CANDIDATE <input type="checkbox"/> COMMITTEE EMPLOYEE <input type="checkbox"/> OTHER INDIVIDUAL IS THIS A DISPUTED DEBT? <input type="checkbox"/> YES <input type="checkbox"/> NO		

DOES THE COMMITTEE HAVE SUFFICIENT FUNDS TO PAY THE REMAINING AMOUNTS TO BE PAID OR OFFERED?

☐ YES ☒ NO IF NO, WHAT STEPS WILL BE TAKEN TO OBTAIN THE FUNDS?

Any remaining amounts owed will be paid from the campaign account and the Candidate's personal funds.

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